

**REMARKS**

Entry of the foregoing, reexamination and further and favorable consideration of the subject application in light of the following remarks, pursuant to and consistent with 37 C.F.R. § 1.111, are respectfully requested.

**I. Amendments to the Claims**

By the foregoing amendment, claims 3, 15, and 16 have been canceled without prejudice or disclaimer to the subject matter recited therein. Additionally, claim 2 has been amended to recite "a primer for the detection of a CMV-resistant plant, which comprises a consecutive nucleotide selected from a nucleotide sequence set forth in SEQ ID NO: 23 to SEQ ID NO: 28." Support for the amendments to claims can be found throughout the originally filed application including the original claims. No new matter has been added. The amendments to the claims have been made without prejudice or disclaimer to any subject matter recited therein. Applicants reserve the right to file one or more continuation and/or divisional applications directed to any canceled subject matter.

**II. Response to Rejections under 35 U.S.C. § 102(b)**

**A.** The Examiner has rejected claim 2 under 35 U.S.C. § 102(b) as allegedly anticipated by Staskawicz et al. (U.S. Patent No. 6,262,343). *See* OFFICE ACTION at 2-7. This rejection is respectfully traversed.

**B.** The Examiner has rejected claims 2-3 and 14 under 35 U.S.C. § 102(b) as allegedly anticipated by Olek et al (International Publication No. WO 2001/177384). *See* OFFICE ACTION at 8. This rejection is respectfully traversed.

**C.** The Examiner has rejected claims 2-3 under 35 U.S.C. § 102(b) as allegedly anticipated by Molyneaux (U.S. Patent No. 6,337,071). *See* OFFICE ACTION at 9. This rejection is respectfully traversed.

To expedite prosecution in the present application, and not to acquiesce to the Examiner's rejection, independent claim 2 has been amended to recite "a primer for the detection of a CMV-resistant plant, which comprises a consecutive nucleotide selected from a nucleotide sequence set forth in SEQ ID NO: 23 to SEQ ID NO: 28." Applicants believe that independent claim 2, as currently amended, and dependent claim 14 are not taught or suggested by any of the references cited by the Examiner in the rejections above.

Further, to expedite prosecution in the present application, and not to acquiesce to the propriety of the Examiner's rejection, claim 3 has been canceled without prejudice or disclaimer to the subject matter recited therein. Therefore, the Examiner's rejections with respect to claim 3 have been rendered moot.

In view of the above, withdrawal of all of the Examiner's rejections under 35 U.S.C. § 102(b) is respectfully requested.

### **III. Response to Rejection under 35 U.S.C. § 112, First Paragraph**

The Examiner has rejected claims 15-16 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement. *See* OFFICE ACTION at 10-13. This rejection is respectfully traversed.

Nevertheless to expedite prosecution in the present application, and not to acquiesce to the propriety of the Examiner's rejection, claims 15-16 have been canceled without prejudice or disclaimer to the subject matter recited therein. As a result, the Examiner's rejection is rendered moot. Withdrawal of the rejection under 35 U.S.C. § 112, first paragraph, is thus respectfully requested.

### **IV. Conclusion**

In view of the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order. Such action is earnestly solicited.

In the event that there are any questions related to this Amendment and Reply, or the application in general, it would be appreciated if the Examiner would telephone the undersigned attorney at the below-listed telephone number concerning such questions so that prosecution of this application may be expedited.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: March 9, 2011

By: /Susan M. Dadio/  
Susan M. Dadio  
Registration No. 40373

**Customer No. 21839**  
703 836 6620